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DACT

PTO/SB/64 (07-09)

Approved for use through 07/31/2012. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
SUNMP340

First named inventor: Alexei Volkov

Application No.: 10/637,132

Art Unit: 2191

Filed: August 8, 2003

Examiner: Anil Khatri

Title: METHOD AND APPARATUS FOR TRANSFERRING DATA IN A DISTRIBUTED TESTING SYSTEM

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional

1. Petition Fee

- ☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.
- ☒ Other than small entity-fee \$ 1,620.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment to Office Action of 3-16-06 (identify type of reply):

- ☒ has been filed previously on February 16, 2007.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature
Albert S. Penilla, Esq.

Type or Printed name
710 Lakeway Drive, Suite 200

Address
Sunnyvale, CA 94085

Address

March 24, 2010

Date
39,487

Registration Number, If applicable
(408) 774-6903

Telephone Number

Enclosures: ☒ Fee Payment
☒ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☒ Other: Copy of Petition Under 1.181 filed Nov. 10, 2009

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

March 24, 2010

Date

Signature
Kay Harlow

Typed or printed name of person signing certificate

PATENT POSTCARD - Customer No. 32291

Docket No. **SUNMP340** Appln. No.: **10/637,132** Date: **Nov. 10, 2009**

By: **ASP:kh** Filing Date: **August 8, 2003** Express Mail No.:

Inventor(s): **Alexei Volkov**

Title: **METHOD AND APPARATUS FOR TRANSFERRING DATA IN A
DISTRIBUTED TESTING SYSTEM**

The following has been received in the U.S. Patent & Trademark Office on the date stamped below:

- Petition Under 1.181 (2 pages)
- Copy of Amendment as filed 2-16-07 (Exhibit 1, 14 pages)
- Copy of Return Postcard, with USPTO stamp dated 2-21-07 (Exhibit 2, 1 page)
- Copy of Check No. 17844, dated 2-16-07 for \$120.00 (Exhibit 3, 1 page)
- Copy of Reverse side of Check No. 17844 with USPTO stamp dated 2-23-07 (Exhibit 4, 1 page)

MPG, LLP
NOV 11 2009
DOCKETED-ATTY *MS*

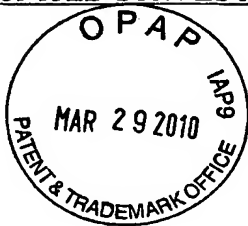
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Volkov, Alexei

Application No: 10/637,132

Filed: August 8, 2003

For: METHOD AND APPARATUS FOR
TRANSFERRING DATA IN A
DISTRIBUTED TESTING SYSTEM

Group Art Unit: 2191

Examiner: Khatri, Anil

Atty. Docket No: SUNMP340

Date: November 10, 2009

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on November 10, 2009.

Signed: _____

Kay Harlow

PETITION UNDER 1.181

Mail Stop: Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Notice of Abandonment (Notice) was mailed to the undersigned on July 16, 2007. The Notice was not received by the undersigned, and the undersigned recently became aware of its abandoned status when the Assignee inquired into the status. Upon downloading the Notice from PAIR, the undersigned noticed that the reason given by the Examiner for abandonment was that the Applicant failed to reply to the action of Oct. 16, 2006.

The Examiner's reason for abandonment is incorrect.

- Attached is a reply to the Oct. 16, 2006 office action was filed on February 16, 2007 (*Exhibit 1*).
- Attached is a copy of the Post Card, having the USPTO stamp dated February 21, 2007 (*Exhibit 2*).
- Attached is a copy of check number 17844, for a 1 month extension dated February 16, 2007 (*Exhibit 3*).
- Attached is the reverse side of check number 17844, with the USPTO endorsement stamp, dated February 23, 2007 (*Exhibit 4*).

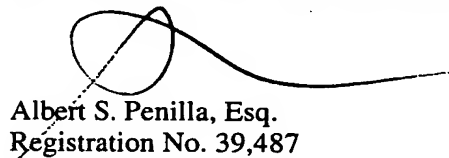
The Notice also included a notation, under reasons, "Approved by Key Harlow on 6/18/07". Correct spelling is "Kay Harlow". The Notice is unclear as to *what* was approved. Our records show that a response was filed to the action of Oct. 16, 2006. The only thing that could have been approved is an indication that a response *was indeed filed* on February 16, 2007.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

Applicant hereby submits that a response was filed for the action of Oct. 16, 2006. Accordingly, the petitions Examiner is respectfully requested to remove this case from abandonment status and return the case to the Examiner for action on the response filed on February 16, 2007.

No fee is believed due for filing this Petition. If any fees are deemed necessary, the Offices is authorized to charge Deposit Account No. 50-0805, (Order No. SUNMP340).

Respectfully submitted,
MARTINE PENILLA & GENCARELLA, LLP



Albert S. Penilla, Esq.
Registration No. 39,487

710 Lakeway Drive, Suite 200
Sunnyvale, CA 94085
Telephone: (408) 774-6903
Customer Number 33291

10/637132

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Volkov, Alexei

Application No: 10/448,614

Filed: August 8, 2003

For: METHOD AND APPARATUS FOR
TRANSFERRING DATA IN A
DISTRIBUTED TESTING SYSTEM

Group Art Unit: 2191

Examiner: Khatri, Anil

Atty. Docket No: SUNMP340

Date: February 16, 2007

CERTIFICATE OF MAILING

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Signed: _____

Kay Harlow

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an Amendment in the above-identified application.

The fee has been calculated as shown below.

	Claims Remaining After Amendment	Highest Previously Paid For	Present Extra	SMALL ENTITY RATE FEE	OR	LARGE ENTITY RATE FEE
TOTAL CLAIMS	29	29	00	X25 = \$	OR	X50 = \$
INDEP CLAIMS	03	03	00	X100 = \$	OR	X200 = \$
[] Multiple Dependent Claim Present and Fee Not Previously Paid				\$180		\$360
TOTAL				\$ _____		\$ _____

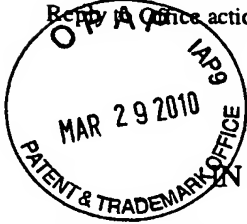
- ☒ Applicant(s) hereby petition for a one month(s) extension of time to respond to the outstanding Office Action.
- ☐ Applicant(s) believe that no (additional) Extension of Time is required; however, if it is determined that such an extension is required, Applicant(s) hereby petition that such an extension be granted and authorize the Commissioner to charge the required fees for an Extension of Time under 37 CFR 1.136 to Deposit Account No. 50-0805.
- ☒ Enclosed is our Check No. 17844 in the amount of \$120.00 to cover the additional claim fee and/or extension of time fees.
- ☒ If the required fees are missing or any additional fees are required to facilitate filing the enclosed response, please charge such fees or credit any overpayment to Deposit Account No. 50-0805 (Order No. SUNMP340). A copy of this sheet is enclosed.

Respectfully submitted,
MARTINE PENILLA & GENCARELLA, LLP

Konrad K. Chan, Esq.
Registration No. 57,857

710 Lakeway Drive, Suite 200
Sunnyvale, CA 94085
Telephone: (408) 774-6903
Customer Number 33291

EXHIBIT 1



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Volkov, Alexei

Application No: 10/448,614

Filed: August 8, 2003

For: METHOD AND APPARATUS FOR
TRANSFERRING DATA IN A
DISTRIBUTED TESTING SYSTEM

)
) Group Art Unit: 2191

)
) Examiner: Khatri, Anil

)
) Atty. Docket No: SUNMP340

)
) Date: February 16, 2007

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450 on February 16, 2007.

Signed: _____

Kay Harlow
Kay Harlow

AMENDMENT

Honorable Commissioner for Patents
Alexandria VA 22313-1450

Dear Sir:

This paper is submitted on February 16, 2007 with a one-month extension in response to the Office Action dated October 16, 2006. Please enter this amendment and remarks.

Amendments to the claims are reflected in the listing of claims, which begin on page 2 of this paper.

Remarks/Arguments begin on page 10 of this paper.

IN THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system, the distributed testing system including a main server component system and at least two client component systems, comprising:

generating at least one data object as a result of testing the software product, the data object to be locally stored in a first location of a first memory of the first client component system;

registering the first location with the main server component system ~~[[and]]~~

requesting the data object from the first memory of the first client component system for the second client component system through the main server component, the second client component requesting the data object if the data object is needed to continue further testing of the software product using the second client component system;

transferring the data object from the first memory of the first client component system to a second memory of the second client component system; ~~the transferring being in response to the second client component system requesting the data object from the first client component system through the main server component system and~~

using the data object to continue testing of the software product on the second client component system.

2. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 1, wherein the registering the first

location further comprising, storing the first location in a shared object table of the main server component system.

3. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 1, further comprising, registering the first location with the first client component system.

4. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 3, wherein the registering the first location further comprising, storing the first location in a client table of the first client component system.

5. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 1, wherein the registering the first location with the main server component system is defined by one of a put function and a putb function.

6. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 1, wherein the data object is defined by one of a resulting test data generated after executing a portion of a test at the first client component system, an identification key, a dynamically generated Java class, a configuration file, a property file, and an initial test data transmitted by the main server component system to each of the first and second client component systems to initialize the test.

7. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 6, wherein the identification key is

used in a secured protocol to establish a secured communication between the main server component system and each of the first and second client component systems.

8. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 1, wherein the each of the first and second memory is defined by one of a random-access memory (RAM), a dynamic RAM (DRAM), and a static RAM (SRAM).

9. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 1, wherein the first location is a memory address of the first memory.

10. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 1, wherein the second client component system requesting the data object from the first client component system is defined by one of a get function and a getb function.

11. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 1, further comprising,
executing a distributed test harness on the main server component system; and
executing a client harness on each of the first and second client component systems.

12. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system, the distributed testing system including a main server component system and at least two client component systems, comprising:

executing a portion of a software product test at a first client component system, the
executing generating at least one data object associated with the software product test to be
locally stored in a first location of a first memory of the first client component system;

registering the first location with the main server component system; [[and]]

transferring the data object from the first memory of the first client component
system to a second memory of the second client component system; the transferring being in
response to the second client component system requesting the data object from the first
client component system through the main server component system; and

executing another portion of the software product test at the second client component
system using the data object from the first client component system.

13. (Currently amended) A computer-implemented method for testing a software
product in a distributed testing system as recited in claim 12, wherein the registering the first
location further comprising,

storing the first location in a shared object table of the main server component
system.

14. (Currently amended) A computer-implemented method for testing a software
product in a distributed testing system as recited in claim 12, further comprising,

registering the first location with the first client component system.

15. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 14, wherein the registering the first location further comprising,

storing the first location in a client table of the first client component system.

16. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 12, wherein the registering the first location with the main server component system is defined by one of a put function and a putb function.

17. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 12, wherein the each of the first and second memory is defined by one of a random-access memory (RAM), a dynamic RAM (DRAM), and a static RAM (SRAM).

18. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 12, wherein the first location is a memory address of the first memory.

19. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 12, wherein the second client component system requesting the data object from the first client component system is defined by one of a get function and a getb function.

20. (Currently amended) A computer-implemented method for testing a software product in a distributed testing system as recited in claim 12, further comprising,

executing a distributed test harness on the main server component system; and

executing a client harness on each of the first and second client component systems.

21. (Currently amended) A system for testing a software product in a distributed testing system, comprising:

a main server component system that manages testing of the software product on client component systems;

a first client component system, the first client component system being in communication with the main server component system to test the software product;

a data object located in a memory of the first client component system, the data object a result of the software product test conducted by the first client component system;

a second client component system, the second client component system being in communication with the main server component system to test the software product; and

wherein the main server component system facilitates communication between each of the first and second client component systems, and wherein a location of the data object is registered with the main server component system for use in transferring the data object from the first client component system to the second client component system if the second client component needs the data object to further test the software product.

22. (Original) A system for testing a software product in a distributed testing system as recited in claim 21, further comprising,

a distributed test harness executed on the main server component system;

a first client harness executed on the first client component system; and

a second client harness executed on the second client component system.

23. (Original) A system for testing a software product in a distributed testing system as recited in claim 21, wherein the main server component system includes a shared object table for storing the location of the data object.

24. (Original) A system for testing a software product in a distributed testing system as recited in claim 21, wherein the first client component system includes a client table for storing the location of the data object.

25. (Original) A system for testing a software product in a distributed testing system as recited in claim 21, further comprising a data transfer monitor facility coupled to the main server component system.

26. (Original) A system for testing a software product in a distributed testing system as recited in claim 21, wherein the data object is defined by one of a resulting test data generated after executing a portion of a test at the first client component system, an identification key, a dynamically generated Java class, a configuration file, a property file,

and an initial test data transmitted by the main server component system to each of the first and second client component systems to initialize the test.

27. (Original) A system for testing a software product in a distributed testing system as recited in claim 26, wherein the identification key is used in a secured protocol to establish a secured communication between the main server component system and each of the first and second client component systems.

28. (Original) A system for testing a software product in a distributed testing system as recited in claim 21, wherein the memory is defined by one of a random-access memory (RAM), a dynamic RAM (DRAM), and a static RAM (SRAM).

29. (Original) A system for testing a software product in a distributed testing system as recited in claim 21, wherein the location is a memory address of the memory.

REMARKS

Rejection under 35 U.S.C. § 112:

The Office has rejected claims 1-29 under 35 U.S.C § 112 second paragraph as being incomplete for omitting essential steps. This rejection is traversed and overcome after entry of the included amendments to the Claims. Claims 1-29 have been amended to include testing steps and Applicant respectfully requests that the Office remove the 35 U.S.C § 112 rejection.

Rejection under 35 U.S.C. § 101:

The Office has rejected claims 1-29 under 35 U.S.C. § 101 because they disclose a claimed invention that is an abstract idea as defined in the case *In re Warmderdam*. Independent claims 1 and 21 have been amended to include language further describing testing processes and steps. Applicant believes that independent claim 12 contained the requisite language to disclose a testing process, however, claim 12 has been amended to further clarify the testing process and steps. Additionally, independent claims 1 and 12 have been amended to include language clarifying that they are "computer implemented" methods. After entry of the included amendments, Applicant respectfully requests removal of the rejection under 35 U.S.C. § 101.

Rejection under 35 U.S.C. § 102(e):

The Office has rejected claims 1-33 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,058,857 to Dallin (hereinafter "Dallin"). This rejection is traversed for at least the following reason.

Dallin fails to teach all elements of Applicant's claimed invention. Dallin teaches using a single computer to generate a test script file using a type template and an output template with data stored in a table. The Office asserts that the teachings of Dallin found in

Column 4, Lines 40-45 are analogous to Applicant's claimed "registering the first location with the same server component system". However, the cited portion of Dallin fails to teach using more than one computer. The cited portion of Dallin teaches the process system using a type template, an output template, and a table having test data to generate a test script file. Note that the cited portions of Dallin are limited to actions occurring on one computer as shown in Figure 1. Applicant's claimed invention is different than what is taught in Dallin as Applicant's claim a main server component and at least two client component systems. If the Office wishes to maintain the rejection based on Dallin, Applicant respectfully requests and explanation regarding how the one computer taught by Dallin can be used as Applicant's claimed main server component system and at least two client component systems.

Applicant also asserts that the teachings of Dallin found in Column 11, Lines 20-46 are not analogous to the respective portions of Applicant's claimed invention as asserted by the Office. While Dallin mentions that the automation tool could exist outside of the computer and communicate with the computer system via a network, as shown in Figure 5 of Dallin, the automation tool is a component of the memory of a single computer system 110. Even assuming accessing the automation tool via a network can be analogous to Applicant's second client system, Dallin fails to teach the first client system and main server component as argued above. As Dallin fails to teach all aspects of Applicant's claimed invention, Applicant respectfully requests the removal of the rejection under 35 U.S.C. § 102(e) based on Dallin.

Rejection under 35 U.S.C. § 103(a):

The Office rejected claims 6 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Dallin taken with U.S. Patent No. 6,993,748 to Schaefer. As argued above, Dallin fails to teach all elements of Applicant's claimed invention. The Office relies on Schaefer to teach a dynamically generated Java class, a configuration file and a property file. Schaefer remains

silent regarding a main server component system and at least two client component systems and thus fails to cure the previously discussed deficiencies of Dallin. Applicant therefore respectfully requests the removal of the rejection under 35 U.S.C. § 103(a) based on Dallin and Schaefer.

In view of the foregoing, reconsideration is respectfully requested. If the Examiner has any questions concerning the present amendment, the Examiner is kindly requested to contact the undersigned at (408) 749-6903. If any other fees are due in connection with filing this amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. SUNMP340). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,
MARTINE PENILLA & GENCARELLA, LLP



Konrad K. Chan, Esq.
Reg. No. 57,857

710 Lakeway Drive, Suite 200
Sunnyvale, CA 94085
Telephone: (408) 749-6900
Facsimile: (408) 749-6901
Customer No: 25920

PATENT POSTCARD - Customer No. 32291

Docket No. **SUNMP340** Appln. No.: **10/637,132** Date: **Feb. 16, 2007**
By: **KC:kh** Filing Date: **August 8, 2003** Express Mail No.:
Inventor(s): **Alexei Volkov**
Title: **METHOD AND APPARATUS FOR TRANSFERRING DATA IN A
DISTRIBUTED TESTING SYSTEM**

The following has been received in the U.S. Patent & Trademark Office on
the date stamped below:

- Amendment Transmittal Sheet (1 page, in duplicate)
- Amendment (12 pages)
- Check No. 17844 for \$120.00



MARTINE PENILLA & GENCARELLA, LLP 04-01
INTELLECTUAL PROPERTY LAW
710 LAKEWAY DRIVE, SUITE 200
SUNNYVALE, CA 94085-4013

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90-7118/3811

17844

2/16/2007

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Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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memo

SUNMP340/P9706/AB

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PATENT AND TRADEMARK OFFICE
13-10-0001
02-23-2007
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